

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA SCUPA 2018 IM004

Osterkamp Trucking, Inc
1350 E. Philadelphia St.
Pomona, CA 91766

CONSENT ORDER

Health and Safety Code
Section 25187 and 25404.1.1

EPA I.D. No. CAL000241676

Respondent.

1. INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control, Imperial Certified Unified Program Agency (DTSC Imperial CUPA) and Osterkamp Trucking, Inc.

(Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent operates a commercial trucking facility which performs repairs and maintenance of trucks and trailers as required at the following site: 3810 Evan Hewes Highway, Plaster City, CA 92259 (Site).

1.3. Inspection. The DTSC Imperial CUPA inspected the Site on June 6, 2017.

1.4. Authorization Status. Respondent has a certificate to manage hazardous materials and hazardous waste at the Site.

1.5. Jurisdiction. Section 25187 and 25404.1.1 of the Health and Safety Code authorizes the DTSC Imperial CUPA to order action necessary to correct violations and assess a penalty when the DTSC Imperial CUPA determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations

alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the DTSC Imperial CUPA does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The DTSC Imperial CUPA alleges the following violations:

2.1.1. Respondent violated Health and Safety Code section 25508.2, in that on or about March 1, 2015, and March 1, 2016, Respondent failed to annually review and electronically certify a hazardous material business plan (HMBP) when storing and/or handling a hazardous material in reportable quantities.

2.1.2. Respondent violated Health and Safety Code section 25505(a)(4), in that on or about June 12, 2017, respondent failed to document training that addresses safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to: emergency response plan and procedures, emergency contact procedures for both local emergency response personnel and to the DTSC Imperial CUPA, mitigation of a release or a threatened release, and evacuation notification, plans, and procedures for the years 2014, 2015, and 2016.

2.1.3. Respondent violated Health and Safety Code section 25270.4.5(a) (reference 40 code of Regulations, Part 112, section 112.3), in that on or about June 6, 2017, Respondent failed to establish and implement a Spill Prevention Control and Countermeasures Plan when storing petroleum in containers 55 gallons or larger, with an overall capacity of greater than 1,320 gallons. Respondent has one 20,000-gallon

aboveground storage tank containing diesel fuel.

2.1.4. Respondent violated Health and Safety Code section 25270.4.5(a) (reference 40 code of Regulations, Part 112, section 112.8(c)(6)), in that on or about June 6, 2017, Respondent failed to conduct integrity testing of one 20,000-gallon aboveground storage tank after 10 years of use, as required by industry standards. The aboveground storage tank was installed in 1999, but no testing was conducted for either external or leak test in 2009

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. This violation has been corrected to the satisfaction of the DTSC Imperial CUPA.

3.1.2. This violation has been corrected to the satisfaction of the DTSC Imperial CUPA.

3.1.3. This violation has been corrected to the satisfaction of the DTSC Imperial CUPA.

3.1.4. This violation has been corrected to the satisfaction of the DTSC Imperial CUPA.

3. 2. Respondent shall make all payments at the time(s) and in accordance with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further

actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the DTSC Imperial CUPA and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the DTSC Imperial CUPA a total penalty of \$5,490. The penalty shall be paid to the DTSC Imperial CUPA no later than 30 days from the effective date of this Order.

5.2. Respondent's check(s) for the penalty shall be made payable to the Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Steven Gailey
Senior Environmental Scientist (Spec)
DTSC Imperial CUPA
Enforcement and Emergency Response Division
Department of Toxic Substances Control
627 Wake Avenue
El Centro, CA 92243

5.3. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the DTSC Imperial CUPA in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the DTSC Imperial CUPA.

Dated: 6/14/2018_____

Signature on File _____
Louis Johnson
Respondent

Dated: 6/14/2018_____

Signature on File _____
Steven Gailey
DTSC Imperial CUPA